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C O N F I D E N T I A L

LIMITED OFFICIAL USE KINGSTON 03053

FOR ARA/CAR DAVID ZWEIFEL

E.O. 12356: N/A
TAGS: PREL, EINV, JM
SUBJECT: GOJ MEMO TO MEMBERS OF CONGRESS ON THE
- ROLLINS CASE

SAC

REF: SOTIRHOS/ZWEIFEL TELCON OF 3/24/88

FOLLOWING IS THE TEXT OF A JAN. 1988 AIDE MEMOIRE WHICH THE JAMAICAN GOVERNMENT SENT TO A NUMBER OF MEMBERS OF THE HOUSE AND SENATE WHO ARE ON KEY COMMITTEES CONSIDERING THE ROLLINS CASE. WE RECEIVED A COPY OF THE AIDE MEMOIRE FROM THE PRIME MINISTER.

QUOTE:

- - - AIDE MEMOIRE

- THE SENATE APPROPRIATIONS COMMITTEE HAS REQUESTED A REPORT ON -

- "THE ALLEGED EXPROPRIATION BY THE GOVERNMENT OF JAMAICA OF CERTAIN LAND AND PROPERTIES OWNED BY ROLLINS JAMAICA LTD. BECAUSE OF OUR SUPPORT IN RECENT YEARS FOR INCREASED ASSISTANCE TO JAMAICA THE COMMITTEE IS PARTICULARLY DISTRESSED BY ALLEGATIONS THAT THE GOVERNMENT OF JAMAICA SEIZED WITHOUT COMPENSATION LAND AND PROPERTIES BELONGING TO AN AMERICAN CITIZEN. THIS COMMITTEE HAD REGARDED JAMAICA AS THE KEYSTONE TO THE PRESIDENT'S CARIBBEAN BASIN INITIATIVE AND WOULD BE GRAVELY DISAPPOINTED IF IT TURNED OUT THAT FOREIGN INVESTORS FIND THEIR INVESTMENTS AT RISK OF EXPROPRIATION."

- THE GOVERNMENT OF JAMAICA CATEGORICALLY DENIES ANY ALLEGATION OF EXPROPRIATION OF ANY PROPERTY OWNED BY ROLLINS JAMAICA LIMITED. THE CONSTITUTION OF JAMAICA MAKES SPECIFIC PROVISION AGAINST EXPROPRIATION AND IS ONE OF THE FEW TO DO SO.

SECTION 18 READS:

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" 18 - (1) NO PROPERTY OF ANY DESCRIPTION SHALL BE COMPULSORILY TAKEN POSSESSION OF AND NO INTEREST IN OR RIGHT OVER PROPERTY OF ANY DESCRIPTION SHALL BE COMPULSORILY ACQUIRED EXCEPT BY OR UNDER THE PROVISIONS OF A LAW THAT -

- (A) PRESCRIBES THE PRINCIPLES ON WHICH
- AND THE MANNER IN WHICH COMPENSATION
- THEREFOR IS TO BE DETERMINED AND GIVEN;

- (B) SECURES TO ANY PERSON CLAIMING AN
- INTEREST IN OR RIGHT OVER SUCH PROPERTY
- A RIGHT OF ACCESS TO A COURT FOR THE
- PURPOSE OF -

- (I) ESTABLISHING SUCH INTEREST OR
- RIGHT (IF ANY);

- (II) DETERMINING THE AMOUNT OF SUCH
- COMPENSATION (IF ANY) TO WHICH HE
- IS ENTITLED; AND

- (III) ENFORCING HIS RIGHT TO ANY SUCH
- COMPENSATION."

THERE ARE NO FACTS TO SUBSTANTIATE SUCH ALLEGATIONS. AND INDEED ROLLINS JAMAICA LTD IS FREE TO SEEK LEGAL REDRESS UNDER THE PROVISIONS OF THE CONSTITUTION IF IT IS THE VIEW OF THE CORPORATION THAT THERE IS A CLAIM TO BE MADE.

- BELOW ARE THE FACTS OF THE MATTER:

- THE CHASE MERCHANT BANK LTD, A SUBSIDIARY OF THE CHASE MANHATTAN BANK, REGISTERED IN JAMAICA, IN EXERCISE OF THEIR POWERS OF SALE AS MORTGAGEES UNDER A MORTGAGE, SOLD THE SHARES TO ROSE HALL (H.I.) LIMITED WHICH OWNED HOLIDAY INN HOTEL AND 3,000 ACRES OF LAND OWNED BY ROSE HALL LIMITED TO URBAN DEVELOPMENT CORPORATION (UDC), A GOVERNMENT CORPORATION IN 1976 DURING THE TERM OF OFFICE OF THE FORMER MANLEY

C O N F I D E N T I A L

LIMITED OFFICIAL USE SECTION 02 OF 03 KINGSTON 03053

FOR ARA/CAR DAVID ZWEIFEL

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SUBJECT: GOJ MEMO TO MEMBERS OF CONGRESS ON THE

ADMINISTRATION. ROSE HALL (H.I.) LIMITED AND ROSE HALL LIMITED ARE COMPANIES OWNED BY ROLLINS JAMAICA LTD.

- ONE OF THE FACTS COMPLICATING THE MATTER IS THAT THE LAND MORTGAGED TO CHASE WAS NOT ALL THE LAND COMPRISED IN THE REGISTERED CERTIFICATE OF TITLE. CERTAIN AREAS DESIGNATED "OUT PARCELS" WERE EXCLUDED FROM THE MORTGAGE ALTHOUGH INCORPORATED IN THE REGISTERED CERTIFICATE OF TITLE. THIS HAS GIVEN RISE TO A DISPUTE IN RESPECT OF THESE "OUT PARCELS."

- THE ORIGINAL DEVELOPMENT WAS BEING DONE BY JOHN ROLLINS THROUGH SEVERAL COMPANIES. OFTEN THERE WAS NO CLEAR AND SEPARATE DEMARCATION

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OF BOUNDARIES AND AS A CONSEQUENCE THE HOLIDAY INN HOTEL WHICH WAS ACQUIRED IN THE TRANSACTION BY THE UDC DOES NOT OWN THE LAND ON WHICH THE TENNIS COURTS OR STAFF QUARTERS ARE SITUATED.

- - IN SEPTEMBER 1976, ROSE HALL (H.I.) LIMITED SUED HOLIDAY INN IN THE STATE OF GEORGIA FOR WRONGFUL INTERFERENCE WITH THE NEGOTIATION THEY WERE UNDERTAKING WITH THE UDC FOR SALE OF THE SAME PROPERTY. THE GEORGIA COURT HELD THAT THE ACTION COULD ONLY BE MAINTAINED BY ROSE HALL (H.I.) LIMITED AND CHASE REFUSED TO PERMIT SUCH AN ACTION.

- - ROSE HALL (H.I.) LIMITED HAS BROUGHT SEVERAL LEGAL ACTIONS AGAINST CHASE WITHOUT SUCCESS: ROSE HALL ON OCTOBER 4, 1976 FILED ACTION IN THE SUPREME COURT OF JUDICATURE OF JAMAICA. THE JAMAICA COURT REFUSED TO ENJOIN THE SALE OF SHARES AND LAND BY CHASE TO URBAN DEVELOPMENT CORPORATION (UDC) ON THE GROUND THAT MONETARY DAMAGES WOULD BE ADEQUATE REMEDY IF ROSE HALL (H.I.) LIMITED SUCCEEDED IN PROVING ITS CASE AT TRIAL. CHASE REPRESENTED THAT IT COULD FINANCIALLY MEET ANY DAMAGE LIABILITY IN JAMAICA. HOWEVER, CHASE SUBSEQUENTLY CLOSED DOWN THEIR OPERATIONS IN JAMAICA.

- - ON APRIL 11, 1979, ROSE HALL FILED ACTION IN THE STATE OF DELAWARE AGAINST CHASE MANHATTAN OVERSEAS BANKING CORPORATION. DESPITE THE FINDINGS THAT THERE WAS EVIDENCE TO SUPPORT THE FINDINGS THAT THE JAMAICA COURT WAS DECEIVED BY REPRESENTATIONS MADE BY CHASE, THEY ENTERED JUDGMENT FOR CHASE. THIS JUDGMENT WAS AFFIRMED BY THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ON JULY 13, 1984.

- - A PETITION FOR RE-HEARING BY THE COURT EN BANC WAS DENIED ON AUGUST 14, 1984.

- CLEARLY, WHAT IS AT THE HEART OF THE MATTER IS A DISPUTE BETWEEN TWO U.S. BASED CORPORATIONS. THE ROLE OF THE GOVERNMENT WAS SIMPLY TO PURCHASE THROUGH ITS SUBSIDIARY, THE URBAN DEVELOPMENT CORPORATION (UDC) PROPERTY OFFERED FOR SALE BY CHASE UNDER POWERS OF MORTGAGE EXERCISED BY CHASE.

- AGAINST THIS BACKGROUND, PRIME MINISTER EDWARD SEAGA INVITED A DISTINGUISHED LAWYER, MR. R.N.A. HENRIQUES, Q.C., TO ADJUDICATE ON OUTSTANDING MATTERS BETWEEN ROLLINS INTERESTS AND THE URBAN DEVELOPMENT CORPORATION, WITH INSTRUCTIONS TO IMPLEMENT THE FINDINGS OF THE ADJUDICATOR TO TRANSFER "OUT PARCELS" OF LAND WHICH IT WAS FOUND ARE PROPERLY THE PROPERTY OF ROLLINS JAMAICA LTD.

- ROLLINS AFTER MANY MONTHS, HAS NOW COMPLETED THE TRANSFER THROUGH HIS JAMAICAN LAWYERS WITH

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THE EXCEPTION OF THREE PARCELS OF BEACH LANDS WHICH ARE BEING SIGNED BY THE BEACH AUTHORITY. THESE TRANSFERS HAVING BEEN EXECUTED NEED ONLY TO BE REGISTERED BY THE REGISTRAR OF TITLES TO BE PERFECTED.

- IN THE INTERIM, DISCUSSIONS HAVE BEEN TAKING PLACE BETWEEN MR. DON STANSBERRY REPRESENTING ROLLINS, AND THE ATTORNEY GENERAL OF JAMAICA ABOUT A SWAP OF SOME OF THE UDC ACQUIRED LANDS FOR LANDS STILL OWNED BY ROLLINS AND NOW OVERRUN BY SQUATTERS, AS IT IS CLEAR THAT NEITHER THE AUTHORITIES NOR ROLLINS WILL BE ABLE TO EVICT ALL OF THEM.

- THE GOVERNMENT STANDS READY TO MAKE PAYMENTS FOR RENTAL OF LANDS BELONGING TO ROLLINS OCCUPIED BY THE HOLIDAY INN HOTEL AND EXPECTS ROLLINS TO PAY RENTALS FOR PREMISES OWNED BY THE UDC AND OCCUPIED BY ROLLINS, AS REQUIRED BY THE FINDINGS OF THE ADJUDICATOR.

- FINALLY, IT IS A MISREPRESENTATION TO SAY THAT THE GOVERNMENT OR ITS AGENCIES ARE UNWILLING TO NEGOTIATE ANY SETTLEMENT BUT IT IS TO BE MADE CLEAR THAT ANY SETTLEMENT MUST RESPECT THE LAW AND CONSTITUTION OF THE LAND, AND THE POLICIES OF GOVERNMENT. IT IS NOT TO BE EXPECTED THAT A "POLITICAL" SETTLEMENT WILL BE REACHED WHICH GIVES DISPENSATIONS TO ROLLINS AND NO ONE ELSE WHICH ARE CONTRARY TO POLICY.

- IN SUMMARY, THE ALLEGATION OF EXPROPRIATION IS UNFOUNDED IN LAW OR IN FACT AND THE WAY REMAINS OPEN FOR ROLLINS OR OTHERS TO DEVELOP THE ROSE HALL LANDS IN KEEPING WITH EXISTING POLICY.

- ACCORDINGLY, IN KEEPING WITH POLICY, THE GOVERNMENT HAS REPEATEDLY INVITED ROLLINS TO SUBMIT PROPOSALS FOR THE DEVELOPMENT OF AREAS OF THE PROPERTY IN QUESTION FOR WHICH FINANCING IS AVAILABLE AND TO NEGOTIATE ARRANGEMENTS CONCERNING THOSE SPECIFIC PARCELS OF LAND REQUIRED FOR THE DEVELOPMENT. THIS IS THE POLICY WHICH APPLIES TO MAJOR DEVELOPMENTS REQUIRING GOVERNMENT-OWNED LAND. GOVERNMENT POLICY DOES NOT ALLOW FOR THE SALE OF LARGE BLOCKS OF LAND WHICH CANNOT BE PUT INTO IMMEDIATE DEVELOPMENT AS THIS WOULD TIE UP VALUABLE ASSETS WHICH COULD BE DEVELOPED BY RESTRICTING OWNERSHIP IN THE HAND OF A SINGLE PERSON OR CORPORATION WHICH IS UNABLE TO PROCEED PROMPTLY WITH DEVELOPMENT AND AS A RESULT THE PACE OF DEVELOPMENT WOULD BE ACCORDINGLY SLOWED.
(DRAFTED:DCM:SRGIBSON/APPROVED:AMB:MSOTIRHOS)
SOTIRHOS

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